

# Questions and Answers for Noncompetitive Appoint of Certain Military Spouses

## General Provisions

Executive Order 13473, dated September 28, 2008, authorized the noncompetitive appointment of certain military spouses to competitive service positions. The U.S. Office of Personnel Management (OPM) codified implementing regulations at 5 CFR 315.612, effective September 11, 2009.

The following questions and answers are intended to provide clarification on the use of this new authority. The questions and answers listed here are not meant to be a substitute for reading the regulations.

1. Question: What is the purpose of these provisions?

**Answer:** The purpose of these provisions is to minimize disruptions in military families due to permanent relocations, disability and deaths resulting from active duty service. To achieve this, these provisions authorize the non-competitive appointment of certain military spouses to positions in the competitive service.

2. Question: Where can these new regulations be found?

**Answer:** These regulations can be found in 5 CFR, 315 subpart F (i.e., 5 CFR 315.612)

3. Question: Do these rules apply to ALL military spouses?

**Answer:** No. These rules apply to only three categories of military spouses:

- Those who are relocating with their service-member spouse as a result of permanent change of station (PCS) orders,
- Spouses of service members who incurred a 100% disability because of the service member's active duty service, and
- Spouses of service members killed while on active duty.

Spouses of military members who are on orders specifying detail (i.e., temporary assignment, deployment, temporary duty or temporary change) to the service member's armed force's duty station, which return the service member back to his or her permanent duty station, are not eligible to use this authority.

4. Question: Do military spouses have a hiring preference under these provisions?

**Answer:** No. Military spouses eligible under this authority do not have a hiring preference by virtue of their eligibility under these provisions. This appointing authority merely provides for non-competitive entry into the competitive service. It does not constitute, establish, or convey a hiring preference.

5. Question: Do eligible spouses have selection priority under these provisions?

**Answer:** No. Eligible spouses do not have a selection priority over other qualified applicants under these provisions. This appointing authority allows for eligible individuals to be considered and selected for Federal jobs; however it does not convey selection priority to eligible spouses.

This authority is an additional non-competitive hiring tool which agencies may use to select qualified, eligible individuals. Agencies are not required to use this hiring authority, nor does it take precedence over the use of other appointment mechanisms.

6. Question: If a military spouse, who is a preference eligible, is competing against an eligible spouse who is not a preference eligible, must agencies apply veterans' preference and pass-over procedures when making a selection under this authority?

**Answer:** No. Because this authority is a non-competitive hiring mechanism and veterans' preference does not apply to positions advertised via merit promotion or internal placement. The agency can select any qualified eligible spouse. Veterans' preference is not a consideration when filling positions under this authority.

7. Question: Is public notice required before an agency may fill a job through this non-competitive hiring authority?

**Answer:** Yes. Agencies must adhere to the provisions of 5 U.S.C. 3330 before filling positions under this authority. 5 U.S.C. 3330 requires public notice for any job that will last more than 1 year that is filled from outside an agency's workforce. In addition, agencies must adhere to the requirements of their career transition assistance plans (CTAP) and their interagency career transition assistance plans (ICTAP) before filling positions through this hiring authority.

8. Question: Do agencies have to clear their career transition assistance plans (CTAP) and interagency career transition assistance plans (ICTAP) lists before making a selection under these provisions?

**Answer:** Yes, agencies must clear CTAP, ICTAP, and any applicable reemployment priority lists before making any type of selection under these provisions.

9. Question: May eligible spouses be hired into temporary or term positions under this authority?

**Answer:** Yes, eligible spouses who meet OPM qualifications standards may be hired into temporary or term positions at the discretion of the hiring agency under this authority.

10. Question: Must an individual relocate with his or her service-member spouse in order to be eligible for non-competitive appointment on the basis of the service member's military transfer?

**Answer:** Yes. Individuals whose eligibility derives from their service member spouse's relocation as documented on the service member's permanent change of station (PCS) orders must relocate with the service member spouse in order to be eligible under these provisions. The intent of E.O. 13473 is to provide employment opportunities to individuals whose lives have been disrupted due to the relocation of their service member spouse.

For example: John and Sue are married and John is currently stationed at Wright-Patterson Air Force Base (AFB) in Ohio. John receives PCS orders transferring him and his family to Andrews AFB, Maryland. Sue must relocate with John to Maryland (as opposed to staying in Ohio) in order to be eligible under this authority. If Sue decides to remain in Ohio, she would not be eligible to apply to positions open under this authority.

Relocation is not required for spouses of service members who are 100% disabled due to their active duty service, or killed while on active duty because their eligibility does not derive from a PCS move.

11. Question: What if the spouse cannot relocate with the service member, due to family obligations?

**Answer:** As noted in the previous Q and A, spouses of eligible service members with permanent change of station (PCS) orders must relocate with the service member to be eligible for appointment under this authority.

12. Question: Are eligible spouses required to meet government-wide qualifications standards in order to be appointed under this authority?

**Answer:** Yes, eligible spouses must be qualified for the position for which they are seeking consideration under this authority.

13. Question: What qualification standard(s) should an agency use when determining an individual's fitness for appointment under this authority?

**Answer:** Agencies use the government-wide qualification standard applicable to the position being filled. These are available at: <http://www.opm.gov/qualifications/standards/indexes/num-ndx.asp>

## Definitions

14. Question: The definition of service member states, "... an individual must be killed while serving on active duty in the armed forces." What is the meaning of this phrase?

**Answer:** In this context, a service member is "killed" anytime a service member dies, or is otherwise deprived of his or her life, for whatever reason while serving on active duty in the armed forces. For example, an individual who dies as the result of an enemy attack, accident, disease, or natural causes has been "killed while serving on active duty in the armed forces" for the purpose of this provision. Of course, there may be other circumstances in which a service member is deprived of his or her life while on active duty

## Eligibility

15. Question: If an individual marries after his or her military spouse receives permanent change of station (PCS) orders is the individual eligible for non-competitive appointment under this authority?

**Answer:** In general, no. The intent of E.O. 13473 is to provide employment opportunities for individuals who are married to service members at the time these service members receive their orders to relocate. However, if the Department of Defense issues the service member updated PCS orders which include his or her new spouse, then the spouse would be eligible under these rules (assuming they meet all applicable requirements of this provision).

16. Question: Are spouses of service members who are on retirement, release or discharge from active duty orders eligible solely on the basis of those orders?

**Answer:** No, orders for release or discharge from active duty service such as release for hardship, or expiration of term service (ETS) orders, are not permanent change of station (PCS) orders and therefore cannot be used to establish eligibility under these provisions. E.O. 13473 specifies eligibility for spouses of service members on PCS orders.

The spouse of a service member who is 100% disabled, and on separation or ETS orders, may be eligible on the basis of the service member's disability.

17. Question: Do the spouses of individuals who receive follow-on orders (i.e., after their initial permanent change of station (PCS) orders) to a military command in the same geographic area to which the individual is already stationed have additional appointment eligibility as a result of the follow-on orders?

**Answer:** No. Spouses of individuals who receive follow-on orders to military commands in the same geographic area as the one to which an individual was initially assigned do not attain additional eligibility under these provisions. In the example provided below, the spouse of the service member has only one appointment eligibility (based on the initial PCS move to the Pentagon).

Example: an individual relocates via PCS orders to the Pentagon, but is subsequently relocated to Fort McNair (Washington, DC) and then again to Army headquarters in Alexandria, VA does not have additional appointment eligibility.

## Conditions

18. Question: Does the 2-year window for appointment eligibility apply only when an eligible spouse is seeking appointment to a permanent position?

**Answer:** No. The 2-year window for appointment eligibility applies to eligible spouses seeking consideration for positions filled on either a temporary, term, or permanent basis. The 2-year eligibility attaches to the eligible spouse, not to the nature/duration of the position being filled.

19. Question: Is there a limit on the number of permanent appointments an eligible spouse may receive when their eligibility is based on a relocation (i.e., permanent change of station or PCS) move?

**Answer:** Yes. Eligible spouses are limited to one permanent appointment under this authority per relocation or PCS move. If the service member receives new relocation or PCS orders to a different geographic location, his or her spouse would have a new permanent appointment eligibility based on the second PCS orders.

There is no limit on the number of temporary or term appointments an individual may receive per PCS move. Correspondingly, an individual who received a temporary or term appointment as a result of a PCS would still be eligible for one permanent appointment based on that same PCS move.

20. Question: Is there a limit on the number of appointments an eligible spouse may receive if the eligibility is based on the disability or death of a service member?

**Answer:** No. There is no limitation on the number of appointments an eligible spouse may receive if the eligibility is based on the disability or death of a service member. Eligibility, however, lasts for 2 years from the date of the documentation which verifies the service member's disability or death while on active duty.

## Proof of Eligibility

21. Question: How does an agency confirm that an individual is the spouse of a service member for purposes of appointment based on relocation under these provisions?

**Answer:** To confirm eligibility the hiring agency must verify the individual has a valid marriage certificate or other documentation verifying marriage (such as any official documentation verifying a recognized common law marriage). In addition, the service member's spouse must be authorized on the military orders assigning the service member to a certain post.

22. Question: What documentation is needed to confirm eligibility for spouses of disabled veterans separated or retired from their applicable branch of service with a 100% disability according?

**Answer:** Individuals must submit a copy of their spouse's Department of Defense (DD) Form 214 and a copy of documentation from either the Department of Veteran's Affairs or the Department of Defense indicating the service member has a disability rating of 100% due to a service connected disability. Spouses must also submit documentation verifying marriage to the service member.

23. Question: How can an agency determine whether an individual, seeking consideration on the basis of relocation, has used this authority more than once within the same geographical location?

**Answer:** Agencies can verify eligibility based on relocation by reviewing the applicant's Standard Form (SF) 50 - Notification of Personnel Action. The SF 50 will indicate the applicant's last place of employment, as well as the appointing authority used, if the individual previously held a federal job. Agencies can also verify eligibility by conducting reference checks with an applicant's previous federal employer.

### **Miscellaneous**

24. Question: What is the eligibility period for spouses of service members who began active duty prior to the date of Executive Order 13473 or the effective date of the implementing regulations?

**Answer:** Eligibility for spouses begins on the date of the service member's permanent change of station (PCS) orders, the date of the documentation verifying a service member is 100% disabled, or the date of the documentation verifying a service member was killed while on active duty and extends for a 2 year period from the date of that documentation.

For example, if a service member's PCS orders are dated 20 months prior to the effective date of the implementing regulations, then the service member's spouse has 4 months of eligibility remaining from the effective date of the implementing regulations.

As another example, if the documentation verifying that a service member was killed while on active duty is dated one month prior to the effective date of the implementing regulations, then the service member's spouse has 13 months of eligibility remaining from the effective date of the implementing regulations.

When eligibility is based on relocation orders, a new 2-year eligibility period starts if the service member receives a new PCS orders.

25. Question: Are there any limitations on the types of positions for which eligible spouses may apply?

**Answer:** There are no limitations on the types of positions for which eligible spouses may apply under this authority. Eligible spouses may apply via this authority for any temporary, term, or permanent position in the competitive service for which an agency has posted a current job announcement. Use of this authority is discretionary on the part of hiring entities.

26. Question: Are there any limitations on the grade levels to which an eligible spouse may be appointed?

**Answer:** No, there are no grade level limitations on positions to which eligible spouses may be appointed under these provisions. Eligible spouses may apply to any competitive service position (temporary, term, or permanent), at any grade level, for which they qualify and are otherwise eligible. Use of this authority is completely discretionary on the part of the hiring agency.

27. Question: How does an agency advertise positions which may be filled through this appointing authority?

**Answer:** Because positions filled under this authority are in the competitive service, agencies have two options for advertising positions filled through this authority: post an "all sources" job announcement, and/or post a merit promotion announcement.

28. Question: If a military spouse applies under an "all sources" announcement, how should the agency consider the applicant?

**Answer:** Agencies are responsible for developing procedures for accepting applications and communicating those procedures to applicants through the job announcement. If the job announcement is open to "all sources" then the agency must clearly provide instructions to applicants on how the application will be received.

With an "all sources" announcement, agencies may consider applicants under a variety of appointing authorities, such as, merit promotion, Veterans' Recruitment Appointment (VRA) or Schedule A of the excepted service, or from a list of external candidates.

This means that agencies have the discretion, for example, to consider military spouse applicants on a separate list of applicants specific to only the military spouse hiring authority. The agency also has the option to consider military spouse applicants along with other applicants from outside the government who are on a competitive list.

If an applicant applies only under the military spouse hiring authority, the hiring agency must consider the applicant under this authority (assuming they are otherwise eligible).

If the applicant applies for consideration under both the competitive process and as a military spouse, the agency must consider the applicant on both the competitive list as well as the military spouse list.

29. Question: If a military spouse applies under a merit promotion announcement, how should the agency consider the applicant?

**Answer:** Under a merit promotion announcement, the agency must consider eligible, qualified military spouses in the same manner as it considers other applicants who are eligible for non-competitive appointments (e.g., Peace Corps volunteers, 30% or more disabled veterans, etc.). The merit promotion announcement should indicate the agency's intent to accept applications from these groups. 5 CFR 315 Subpart F, Career or Career Conditional Appointment Under Special Authorities, contains a complete list of non-competitive hiring authorities..

30. Question: If an agency posts two separate announcements (merit promotion and "all sources"), and the military spouse applicant applies to both announcements, can the agency process the application under only one announcement?

**Answer:** No. In this instance, military spouses are given two opportunities to be considered for one position and must be referred and considered on both lists, provided they are otherwise eligible. If the military spouse applies to both announcements the agency cannot remove the military spouse eligible from either list to make a selection. This means the agency may not deny consideration under one referral, e.g., delegated examining unit, because the military spouse eligible is being considered under a different referral, e.g., merit promotion.

31. Question: How do agencies document appointments made under this authority?

**Answer:** Documentation of appointments made using this authority can be found in The Guide to Processing Personnel Actions; chapter 9 (permanent appointments) and chapter 10 (temporary and term appointments). The Guide is available on the OPM website at: <http://www.opm.gov/feddata/gppa/gppa.asp>

32. Question: If the spouse of an eligible service member is a non-U.S. citizen, is the spouse still eligible for non-competitive appointment?

**Answer:** No. This authority provides for non-competitive entry into the competitive service. Executive Order 11935, however, restricts the employment of non-citizens from competitive service positions.

33. Question: Does eligibility under another appointing authority (e.g., the Veteran's Recruitment Authority appointment) preclude an individual from eligibility under this authority?

**Answer:** No, eligible spouses may apply and ask for consideration under this and any other appointing authority for which they are eligible.

34. Question: How can an agency recruit eligible spouses, in order to consider them for positions using this authority?

**Answer:** Agencies have a variety of ways with which to recruit eligible spouses. These include, but are not limited to the following:

- Establish partnerships/liaisons with Family Support Offices (FSOs) at local military installations. These FSOs can provide information about this authority to recently relocated service members and/or their spouses.
- Partner with Department of Defense Transition Assistance Program (TAP) personnel. TAP representatives may also be able to provide information about this authority to recently relocated service members.
- Post information about this hiring authority and job opportunities on agency websites.

35. Question: How does an eligible spouse find out about job openings?

**Answer:** An electronic listing of Federal job opportunities may be obtained from the Office of Personnel Management's USAJOBS website at: [www.usajobs.gov](http://www.usajobs.gov). Many Federal agencies also display electronic employment information and job listings on their websites.

36. Question: Are spouses hired under this authority subject to any grade-level limitations on the positions into which they are hired?

**Answer:** No, eligible spouses are not subject to any grade level limitations in conjunction with appointment under this authority. Individuals must meet the qualification requirements for the position in question, as well as the requirements of other applicable laws, regulations, or provisions.

37. Question: Are agencies provided specific slots or full time equivalent allocations (FTEs) for filling positions through this authority?

**Answer:** No. Agencies may use this authority to fill any competitive service vacancy they may have. The implementing Executive order did not allocate specific or additional FTEs in conjunction with this appointing authority.

38. Question: Do spouses appointed to term or permanent positions under this authority serve a trial or probationary period?

**Answer:** Yes. Spouses appointed to term or permanent positions are subject to either a trial or probationary period, as appropriate, per 5 CFR 315.801(e) and 5 CFR 316.304. Individuals appointed to temporary positions do not serve a probationary period.

39. Question: Is the service member's type of discharge from the armed forces a consideration in determining whether the service member's spouse is eligible for appointment under these provisions?

**Answer:** No, the type or character of discharge under which the service member was released or discharged from active duty is not a consideration in determining eligibility for the service member's spouse.

40. Question: Does this authority apply to spouses of Public Health Service members?

**Answer:** No. Public Health Service members are members of the uniformed services. Title 10 excludes them as members of the active duty armed forces.

41. Question: Which codes should agencies use on the Standard Form (SF) 50 when processing actions under this authority?

**Answer:** Permanent appointments:

- If the spouse is not on the agency's rolls:  
The Nature of Action code (NOAC) is 101;  
The authority code is LAM;  
And the authority is 315.612
- If the spouse is already on the agency's rolls:  
The Nature of Action code (NOAC) is 501;  
The authority code is LAM;  
And the authority is 315.612

Term appointments:

- If the spouse is not on the agency's rolls: The Nature of Action code (NOAC) is 108;  
The authority code is LDM;  
And the authority is 316.302(b)(3)MS
- If the spouse is already on the agency's rolls: The Nature of Action code (NOAC) is 508;  
The authority code is LDM;  
And the authority is 316.302(b)(3)MS

Temporary appointments:

- If the spouse is not on the agency's rolls: The Nature of Action code (NOAC) is 115;  
The authority code is LCM;  
And the authority is 316.402(b)(3)MS
- If the spouse is already on the agency's rolls: The Nature of Action code (NOAC) is 515;  
The authority code is LCM;  
And the authority is 316.402(b)(3)MS

See chapters 9 and 10 of the Guide to Processing Personnel Actions, available on the OPM website at:

<http://www.opm.gov/feddata/gppa/gppa.asp>